



## **SECTION 8 HOUSING ASSISTANCE PROGRAM INFORMAL HEARINGS**

**~Participants Only~**

**CFR §982.555**

### **WHEN A HEARING IS REQUIRED TO BE OFFERED:**

The Housing Authority (HA) must give a participant the opportunity for an Informal Hearing if the participant wishes to have any of the following HA decisions/determinations reviewed for compliance with the law, HUD regulations, and HA rules or policies:

- 1.\* A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HA utility allowance schedule.
3. A determination of the family unit size under the HA subsidy standards.
- 4.\* A determination that a Certificate Program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HA subsidy standards, or the HA determination to deny the family's request for an exception from the standards.
- 5.\* A determination to terminate assistance for a participant family because of the family's action or failure to act (see §982.552).
- 6.\* A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the HA policy and HUD Rules.
7. Determination of tenant repayment charges for rent overpayments or unpaid rent, damage or vacancy loss claims.

\*In the cases described in paragraphs 1, 4, 5 and 6 above, the HA must give the opportunity for an Informal Hearing before the HA terminates housing assistance payments for the family under an outstanding Housing Assistance Payments Contract.

### **WHEN A HEARING IS NOT REQUIRED TO BE OFFERED:**

The HA is not required to provide a participant an opportunity for an Informal Hearing for any of the following:

1. Discretionary administrative determinations by the HA.
2. General policy issues or class grievances.
3. Establishment of the HA schedule of utility allowances for families in the program.

4. An HA determination not to approve an extension or suspension of a Certificate or Voucher term.
5. An HA determination not to approve a unit or lease.
6. An HA determination that an assisted unit is not in compliance with Housing Quality Standards (HQS). Note: the HA must provide the opportunity for an Informal Hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in CFR §982.551).
7. An HA determination that the unit is not in accordance with HQS because of the family size.
8. A determination by the HA to exercise or not to exercise any right or remedy against the owner under a Housing Assistance Payments Contract.

#### **HEARING NOTICE:**

The HA will provide the participant family with prompt written notice of decision and/or determinations requiring an opportunity for an Informal Hearing. The notice shall:

1. Include a brief statement of the reason for the decision.
2. Advise the participant family of his/her right to request an Informal Hearing if the participant family does not agree with the decision.
4. Specify that the request for a hearing must be made, in writing or verbally, within seven working days from the date of the notice.

#### **DISCOVERY:**

The participant family must be given the opportunity to examine, before the hearing, any documents that are directly relevant to the hearing. The participant must be allowed to copy any such documentation at the participant's expense. If the HA does not make the documentation available for examination on the request of the participant, the HA may **not** rely on the document at the hearing.

The HA must be given the opportunity to examine, before the hearing and at the HA offices, any participant family documents that are directly relevant to the hearing. The HA must be allowed to copy any documents, at the HA's expense. If the tenant does not make the documents available for examination on request of the HA, the tenant may **not** rely on the document at the hearing.

#### **PROCEDURES:**

Informal hearings will be conducted in accordance with the following rules:

1. The hearing will be conducted by a member of the City Attorney's office.
2. The person(s) conducting the hearing will regulate the conduct of the hearing in accordance with HA procedures.
3. The participant family may be represented, at his/her own expense, by a lawyer or other representative.
4. The HA and the participant must be given the opportunity to present evidence, and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
5. The person conducting the hearing must provide the participant, within ten (10) days of the hearing, the notice of decision. The notice of decision must briefly state the reason(s) for the decision. Factual determinations shall be based on evidence provided at the hearing.

#### **EFFECT OF DECISION:**

The HA is not bound by a hearing decision:

1. Concerning a matter for which the HA is not required to provide an opportunity for an Informal Hearing under HUD Regulations, or that otherwise exceeds the authority of the person conducting the hearing under the HA hearing procedures.
2. Contrary to HUD regulations or requirements, or otherwise contrary to federal, State or local law.

If the HA determines that it is not bound by a hearing decision, the HA must promptly notify the family of the determination, and the reasons for the determination.

